

§ 204.305

8 CFR Ch. I (1–1–08 Edition)

(4) The performance by the child's parent or parents of any act that makes the child a Convention adoptee.

(b) *Permissible payments.* Paragraph (a) of this section does not prohibit an applicant/petitioner, or an individual or entity acting on behalf of an applicant/petitioner, from paying the reasonable costs incurred for the services designated in this paragraph. A payment is not reasonable if it is prohibited under the law of the country in which the payment is made or if the amount of the payment is not commensurate with the costs for professional and other services in the country in which any particular service is provided. The permissible services are:

(1) The services of an adoption service provider in connection with an adoption;

(2) Expenses incurred in locating a child for adoption;

(3) Medical, hospital, nursing, pharmaceutical, travel, or other similar expenses incurred by a mother or her child in connection with the birth or any illness of the child;

(4) Counseling services for a parent or a child for a reasonable time before and after the child's placement for adoption;

(5) Expenses, in an amount commensurate with the living standards in the country of the child's habitual residence, for the care of the birth mother while pregnant and immediately following the birth of the child;

(6) Expenses incurred in obtaining the home study;

(7) Expenses incurred in obtaining the reports on the child as described in 8 CFR 204.313(d)(3) and (4);

(8) Legal services, court costs, and travel or other administrative expenses connected with an adoption, including any legal services performed for a parent who consents to the adoption of a child or relinquishes the child to an agency; and

(9) Any other service the payment for which the officer finds, on the basis of the facts of the case, was reasonably necessary.

(c) *Department of State requirements.* See 22 CFR 96.34, 96.36 and 96.40 for additional regulatory information concerning fees in relation to Convention adoptions.

§ 204.305 State preadoption requirements.

State preadoption requirements must be complied with when a child is coming into the State as a Convention adoptee to be adopted in the United States. A qualified Convention adoptee is deemed to be coming to be adopted in the United States if either of the following factors exists:

(a) The applicant/petitioner will not complete the child's adoption abroad; or

(b) In the case of a married applicant/petitioner, the child was adopted abroad only by one of the spouses, rather than by the spouses jointly, so that it will be necessary for the other spouse to adopt the child after the child's admission.

§ 204.306 Classification as an immediate relative based on a Convention adoption.

(a) Unless 8 CFR 204.309 requires the denial of a Form I-800A or Form I-800, a child is eligible for classification as an immediate relative, as defined in section 201(b)(2)(A)(i) of the Act, on the basis of a Convention adoption, if the U.S. citizen who seeks to adopt the child establishes that:

(1) The United States citizen is (or, if married, the United States citizen and the United States citizen's spouse are) eligible and suitable to adopt; and

(2) The child is a Convention adoptee.

(b) A U.S. citizen seeking to have USCIS classify an alien child as the U.S. citizen's child under section 101(b)(1)(G) of the Act must complete a two-step process:

(1) First, the U.S. citizen must file a Form I-800A under 8 CFR 204.310;

(2) Then, once USCIS has approved the Form I-800A and a child has been identified as an alien who may qualify as a Convention adoptee, the U.S. citizen must file a Form I-800 under 8 CFR 204.313.

§ 204.307 Who may file a Form I-800A or Form I-800.

(a) *Eligibility to file Form I-800A.* Except as provided in paragraph (c) of this section, the following persons may file a Form I-800A:

(1) An unmarried United States citizen who is at least 24 years old and